



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,629	06/22/2001	Vipul Bansal	JP920010121US1	7402

7590 03/21/2008
INTERNATIONAL BUSINESS MACHINES CORPORATION
ALMADEN RESEARCH CENTER
650 HARRY ROAD
SAN JOSE,, CA 95120

EXAMINER

AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
----------	--------------

3691

MAIL DATE	DELIVERY MODE
-----------	---------------

03/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/887,629	BANSAL ET AL.	
	Examiner	Art Unit	
	OLABODE AKINTOLA	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 February 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3,4,6,8,9,13-15,19,21,22,24,26,27,31-33,37,39,40,42,44,45 and 49-51 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

Continuation of Disposition of Claims: Claims pending in the application are 1,3,4,6,8,9,13-15,19,21,22,24,26,27,31-33,37,39,40,42,44,45 and 49-51.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4, 8-9, 13-15, 19, 21-22, 26-27, 31-33, 37, 39-40, 44-45 and 49-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Pathak (US 20020016760) (“Pathak”).

Re claims 1, 19 and 37: Pathak teaches a method for enabling the online determination of end to end costs during an online ascending or reverse auction, said method comprising: maintaining an online database of costs associated with each significant cost element in order to compute said end to end costs for goods and services offered by an offerer and bid upon by a bidder (sections 033); receiving a first online bid to buy or sell said offered goods and services from a first bidder (sections 033); updating said online database of costs related to said first online bid and calculating a first bid's end to end costs related to said first online bid (sections 033); receiving a second online bid to buy or sell said offered goods and services from a second bidder (sections 033); updating said online database of costs related to said second online bid and calculating a second bid's end to end costs related to said second online bid (sections 033); if, in an ascending auction, said second bid's end to end costs result in a higher payout to said offerer than the first bid's end to end costs, then accepting said second bid, else accepting said first bid (section 0009, 0010, 0014, claim 3 (f.iv-f.v and d.)); and if, in a reverse auction, said second bid's end to end

costs result in a higher cost to said offerer than the first bid's end to end costs, then accepting said first bid, else accepting said second bid (section 0009, 0010, 0014, claim 6 (f.iv-f.v and d)).

Re claims 3, 21 and 39: Pathak teaches wherein said each significant cost element includes any of shipping and handling costs, logistics management costs, taxes, finance costs, commissions, duties, insurance, regulatory and statutory-related costs, and information costs (section 0033).

Re claims 4, 22 and 40: Pathak teaches wherein databases, which provide information for updating said online database of costs, are associated with said offferer, said bidder or by a third party (section 0033, fig. 1).

Re claims 8-9, 13-14, 26-27, 31-32, 44-45 and 49-50: Pathak teaches an online ascending and reverse auctions; minimum/maximum qualifying bid (abstract, sections 0009, 0010, 0014, 0033, claim 3 (f.iv-f.v and d.), claim 6 (f.iv-f.v and d)).

Re claims 15, 33 and 51: Pathak teaches wherein updated offers are shown to potential bidders after online computation of said end to end cost (section 0013)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6, 24 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pathak in view of Woolston (US 6202051)

Re claims 6, 24 and 42: Pathak does not explicitly teach method is implemented by an online intermediary providing facilities as a service either against a fee of commission or free of charge. Woolston teaches an online intermediary (entity hosting) providing facilities as a service either against a fee of commission or free of charge (col. 24, lines 4-10). It would have been obvious to one ordinary skill in the art at the time of the invention to modify Pool to factor in commission fees charged for hosting the portal in addition to other applicable taxes and/or fees.

Response to Arguments

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., wherein at each stage of the auction, the offerer may obtain information related to end to end costs of the proposed transaction) are not recited in the rejected claim(s). Although the claims are interpreted

in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Turban, E., ("Auctions and Biddings on the Internet: An Assessment", Focus Theme, CSU, Long Beach, 1997), teaches online auction of foreclosed real estate (Page 8, col. 1, para. 2) and Listing fees (page 10, col. 1, para. 3).

U.S. Department of Housing and Urban Development, ("Sale Contract" 1/99) teaches net amount due to Seller (Purchase price less closing help, broker commission and "listing fee") (Page 2, item 5-7).

Hostetter, "HUD homes have many advantages unjustified bad reputation", The Fresno Bee, Fresno Calif.: July 12, 1998, teaches that winning bid is the one with the biggest net return to HUD after closing costs and broker's commission are paid (page 2, para 9-14).

Svitil, "Homes on the Block Southland Buyers Find Homes They Can Afford at HUD Auctions"; LA Times, Calif., Feb. 5, 1995

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/887,629
Art Unit: 3691

Page 7

OA
/Hani M. Kazimi/
Primary Examiner, Art Unit 3691